

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1025 Firesafety

SPONSOR(S): Regulatory Affairs Committee; Insurance & Banking Subcommittee; Raburn; Combee and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 1148

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	13 Y, 0 N, As CS	Gonzalez	Cooper
2) Regulatory Affairs Committee	16 Y, 0 N, As CS	Gonzalez	Hamon

SUMMARY ANALYSIS

The Florida Fire Prevention Code (FFPC) contains all firesafety laws and rules that pertain to public and private buildings and the enforcement of such laws and rules. It is adopted by rule by the State Fire Marshal.

Under current law, a structure located on agricultural property is exempt from the FFPC if the occupancy is limited to 35 persons. Tents up to 30 feet by 30 feet are also exempt. Local fire officials are required to fashion reasonable alternatives with an equivalent degree of safety if applying the FFPC is not practical.

A nonresidential farm building is any building that is used primarily for agricultural purposes, is located on land integral to a farm operation and is not intended to be used as a residential dwelling. The term includes, but is not limited to, a barn, greenhouse, farm office, storage building, or poultry house. Nonresidential farm buildings are currently exempt from the Florida Building Code and county and municipal codes, but not from the FFPC.

This bill exempts agricultural pole barns, nonresidential farm buildings with 90 percent or more of the perimeter walls permanently open, from the FFPC. It exempts other nonresidential farm buildings if they are used only for the secondary purposes of assembly, business, or mercantile occupancy with fewer than 100 persons. The building must provide 7 or 15 square feet per person in attendance, depending on the concentration of tables and chairs, and at least two exits. The storage of flammable liquids during an event is not permitted.

The bill requires the State Fire Marshal to conduct a study on the secondary use of nonresidential farm buildings as assembly, business, or mercantile occupancies that have 100 persons or more in attendance. The State Fire Marshal must convene a workgroup for this study and determine if these occupancies require lifesafety and fire prevention standards that are different from those currently contained in the FFPC and to initiate rulemaking to facilitate the use of such alternatives in farm outbuildings.

The bill revises the exemption of tents from the FFPC from up to 30 feet by 30 feet to up to 900 square feet. The bill also allows local fire officials to consider certain fire safety evaluation systems as acceptable systems for identifying reasonable alternatives to current standards under s. 633.208, F.S.

The bill has minimal to no fiscal impact on state government.

The bill should have a minimal negative fiscal impact to local governments associated with the collection of fines for violations of the FFPC. However, this impact may be offset by a minimal positive fiscal impact associated with decreased costs for inspections of nonresidential farm buildings covered by the bill.

The bill should have a minimal positive fiscal impact on the private sector associated with decreased fines for violations of the FFPC by certain nonresidential farm buildings covered by the bill.

The bill has an effective date of July 1, 2015.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1025c.RAC

DATE: 4/16/2015

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Chief Financial Officer is designated as the “State Fire Marshal.” The State Fire Marshal is charged with enforcing the provisions of ch. 633, F.S., and all other applicable laws relating to firesafety and has the responsibility to minimize the loss of life and property in this state due to fire.¹

The Florida Fire Prevention Code (FFPC) contains all firesafety laws and rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such firesafety laws and rules. It is adopted by rule, pursuant to ch. 120, F.S., by the State Fire Marshal. The State Fire Marshal adopts a new edition of the FFPC every third year.²

Under current law, a structure located on property that is classified as agricultural, which is part of a farming or ranching operation, is exempt from the FFPC, including the national codes and Life Safety Code, if the occupancy is limited by the property owner to no more than 35 persons and is not used by the public for direct sales or as an educational outreach facility. Current law also exempts tents up to 30 feet by 30 feet from the FFPC, including the national codes.³

Nonresidential farm building is defined under s. 604.50, F.S., as any temporary or permanent building or support structure that is classified as a nonresidential farm building on a farm for the purposes of the Florida Building Code⁴, or that is classified as agricultural land for assessment purposes⁵, is used primarily for agricultural purposes, is located on land that is an integral part of a farm operation and is not intended to be used as a residential dwelling. The term may include, but is not limited to, a barn, greenhouse, shade house, farm office, storage building, or poultry house.

Under Florida law, nonresidential farm buildings are exempt from the Florida Building Code and any county or municipal code or fee, except for code provisions implementing local, state, or federal floodplain management regulations.⁶ They are not currently exempt from the FFPC.

Additionally, since the Legislature recognizes that it is not always practical to apply any or all of the provisions of the FFPC, under the minimum firesafety standards, the local fire officials shall apply the applicable firesafety code for existing buildings to the extent practical to ensure a reasonable degree of lifesafety and safety of property. The local fire officials are also required to fashion reasonable alternatives that afford an equivalent degree of lifesafety and safety of property.⁷

Effect of Bill

The bill exempts agricultural pole barns, which are nonresidential farm buildings in which 90 percent or more of the perimeter walls are permanently open, from the FFPC without restrictions. It also revises the description of structures currently exempt from the FFPC in which the occupancy is limited by the property owner to no more than 35 persons, to nonresidential farm buildings. The current exemption of agricultural structures is expanded to include the use for direct sales.

¹ s. 633.104, F.S.

² s. 633.202, F.S.

³ s. 633.202(16), F.S.

⁴ s. 533.73(10)(c), F.S.

⁵ s. 193.461, F.S.

⁶ s. 604.50(1), F.S.

⁷ s. 633.208, F.S.

The bill also exempts certain other nonresidential farm buildings from the FFPC if the building is used by the owner only for the secondary purposes of assembly, business, or mercantile occupancy. Business occupancy is defined by the FFPC as an occupancy used for account and record keeping, or the transaction of business other than mercantile. Mercantile occupancy is defined as an occupancy used for the display and sale of merchandise.

In order for a building to qualify for the exemption created by the bill, each event must have fewer than 100 persons occupying the building at one time. The building must also provide 7 or 15 square feet per person in attendance, depending on the concentration of tables and chairs, it must provide at least two exits of specified dimensions, and the storage of combustible or flammable liquids during an event is not permitted.

The bill requires the State Fire Marshal to conduct a study on the secondary use of nonresidential farm buildings as assembly, business, or mercantile occupancies that have 100 persons or more in attendance. The State Fire Marshal must convene a workgroup, consisting of various stakeholders including the Department of Agriculture and Consumer Services, for this study and determine if these occupancies require life safety and fire prevention standards that are different from those currently contained in the FFPC and to initiate rulemaking to facilitate the use of such alternatives in farm outbuildings.

The bill revises the exemption of tents from the FFPC from up to 30 feet by 30 feet to up to 900 square feet. The bill also allows local fire officials to consider the fire safety evaluation systems found in the National Fire Protection Association (NFPA) Guide on Alternative Solutions to Life Safety as acceptable systems for identifying reasonable alternatives to current standards under s. 633.208, F.S.

B. SECTION DIRECTORY:

Section 1: Amends s. 633.202, F.S., relating to exemptions from the Florida Fire Prevention Code.

Section 2: Amends s. 633.208, F.S., relating to the minimum fire safety standards and alternatives to the firesafety code.

Section 3: Provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Uncertain. The Department of Agriculture and Consumers Services believes that participation in the workgroup and rulemaking process will have minimal to no fiscal impact on the department as they anticipate using current staff and resources

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Uncertain. Minimal negative fiscal impact on local governments, equal to positive impact on private sector, associated with decreased collection of fines for violations of the FFPC due to exemption of certain nonresidential farm buildings covered by the bill.

2. Expenditures:

Uncertain. Minimal positive fiscal impact on local governments associated with decreased cost of inspections of nonresidential farming buildings covered by the bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Uncertain. Minimal positive fiscal impact on the private sector associated with decreased fines for violations of the FFPC due to exemption of certain nonresidential farm buildings covered by the bill.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 18, 2015, the Insurance & Banking Subcommittee adopted one amendment and reported the bill favorable as a committee substitute. The amendment made the following changes:

- Removed the current limitation on direct sales for exemptions of agricultural structures.
- Required the property owner to notify the local fire official of each occupancy at least 7 days before the occupancy.
- Clarified that the nonresidential farm building may not be used for lodging purposes. Clarified that the only secondary uses exempt from the Florida Fire Prevention Code under the bill are assembly, business, and mercantile occupancy.
- Clarified that each occupancy may last no longer than 72 consecutive hours.
- Clarified that each occupancy may have no more than 150 persons in attendance at one time.
- Provided that the exempt nonresidential farm building must have at least two exits of a certain size.
- Provided that the exempt nonresidential farm building must provide at least 7 square feet per person in attendance if the building is unconcentrated with chairs and tables and 15 square feet per person if the building is concentrated with chairs and tables.
- Provided that the storage of combustible or flammable liquids in the nonresidential farm building is not permitted during an event.
- Removed language requiring the State Fire Marshal to convene a workgroup, conduct a study, and initiate rulemaking.

On April 14, 2015, the Regulatory Affairs Committee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The adopted amendment made the following changes:

- Removed the notification requirement to local fire officials of events being held in nonresidential farm buildings.
- Decreased the maximum exempt occupancy load from 150 persons to fewer than 100.
- Removed the annual maximum number of secondary use events allowed for nonresidential farm buildings to retain exemption from the fire code.
- Removed the requirement that exits open in the direction of exit travel.
- Added the requirement that the State Fire Marshal convene a workgroup, conduct a study, and initiate rulemaking for alternative standards to the fire code for secondary uses of nonresidential farm buildings with 100 persons or more in attendance.
- Revised the exemption of tents from the fire code from up to 30 feet by 30 feet, to up to 900 square feet.

The staff analysis is drafted to reflect the committee substitute.